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AMENDMENT NO. ---

Calendar No. ---

Purpose: To amend the Foreign Service Act of 1980 to reform the Foreign Service Retirement and Disability System.

IN THE SENATE OF THE UNITED STATES--99th Cong., 1st Sess.

S. 1527

To amend title 5, United States Code, to establish a new retirement and disability plan for Federal employees, postal employees, and Members of Congress, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

Amendments intended to be proposed by Mr. -----

Viz:

1 Redesignate title IV as title V.

2 Redesignate sections 401, 402, 403, and 404 as sections

3 501, 502, 503, and 504, respectively.

4 Immediately following title III, insert the following:

5 TITLE IV--FOREIGN SERVICE RETIREMENT

6 REDESIGNATION OF CERTAIN PROVISIONS OF THE FOREIGN SERVICE

7 ACT OF 1980

8 Sec. 401. (a) Chapter 8 of title I of the Foreign Service

9 Act of 1980 (94 Stat. 2102; 22 U.S.C. 4041 et seq.) is

10 amended--

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1 (1) by striking out the caption of such chapter and
 2 inserting in lieu thereof the following:

3 ``CHAPTER 8--Foreign Service Retirement and Disability
 4 ``Subchapter I--Foreign Service Retirement And Disability
 5 System``; and

6 (2) by striking out ``this chapter`` each place it
 7 appears and inserting in lieu thereof ``this
 8 subchapter``.

9 (b)(1) Section 808(d) of such Act (94 Stat. 2110; 22
 10 U.S.C. 4048(d)) is amended--

11 (A) by striking out ``such subchapter`` each place it
 12 appears in the second and third sentences and inserting
 13 in lieu thereof ``subchapter I of such chapter 81``; and

14 (B) by striking out ``Act`` each place it appears and
 15 inserting in lieu thereof ``subchapter``.

16 (2) Section 808(e) of such Act (94 Stat. 2111; 22 U.S.C.
 17 4048(e)) is amended by striking out ``Act`` each place it
 18 appears and inserting in lieu thereof ``subchapter``.

19 (c) Section 809(a) (94 Stat. 2111; 22 U.S.C. 4049(a)) is
 20 amended by striking cut ``Act`` and inserting in lieu thereof
 21 ``subchapter``.

22 CONTRIBUTIONS TO THE FOREIGN SERVICE RETIREMENT AND
 23 DISABILITY SYSTEM

24 Sec. 402. Section 805 of the Foreign Service Act of 1980
 25 (94 Stat. 2104; 22 U.S.C. 4045) is amended--

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1 (1) by inserting "Except as provided in subsection
2 (g)," before "7 percent" in the first sentence of
3 subsection (a); and

4 (2) by adding at the end thereof the following new
5 subsection (g):

6 "(g)(1) In the case of an employee or member of the
7 Service who was a participant subject to this subchapter
8 before January 1, 1984, and whose service--

9 "(A) is employment for the purposes of title II of
10 the Social Security Act and chapter 21 of the Internal
11 Revenue Code of 1954, and

12 "(B) is not creditable service for any purpose under
13 this subchapter or chapter 84 of title 5, United States
14 Code,

15 there shall be deducted and withheld from the basic pay of
16 the employee or member of the Service under this subsection
17 during any pay period only the amount computed pursuant to
18 paragraph (2).

19 "(2) The amount deducted and withheld from the basic pay
20 of an employee or member of the Service during any pay period
21 pursuant to paragraph (1) shall be the excess of--

22 "(A) the amount determined by multiplying the
23 percent applicable to the employee or member of the
24 Service under subsection (a) by the basic pay payable to
25 the employee or member of the Service for such pay

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1 period, over

2 "(P) the amount of the taxes deducted and withheld
3 from such basic pay under section 3101(a) of the Internal
4 Revenue Code of 1954 for such pay period."

5 OFFSET OF ANNUITY BY THE AMOUNT OF SOCIAL SECURITY BENEFITS
6 Sec. 403. Section 806 of the Foreign Service Act of 1980
7 (94 Stat. 2106; 22 U.S.C. 4046) is amended by adding at the
8 end thereof the following new subsection:

9 "(m)(1) Effective on the first day of the month in which
10 an annuitant, including a survivor, becomes 62 years of age,
11 the annuity computed under the other subsections of this
12 section and payable to the annuitant shall be reduced (but
13 not below zero) by the amount determined by multiplying the
14 amount of the old-age and survivors insurance benefits which
15 the annuitant is entitled to receive under section 202 of the
16 Social Security Act for the such month, if any, by a
17 fraction--

18 "(A) the numerator of which is the total of the
19 wages (within the meaning of section 209 of the Social
20 Security Act) for service which is referred to in
21 paragraph (2) of this subsection for years before the
22 calendar year in which such month occurs, and

23 "(B) the denominator of which is the total of all
24 wages (within the meaning of section 209 of the Social
25 Security Act) and all self-employment income (within the

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1 meaning of section 211(b) of the Social Security Act)--
2 "(1) of such annuitant, or
3 "(11) in the case of a survivor, of the
4 participant on whose service the annuity is based,
5 credited for years after 1936 and before the calendar
6 year in which such month occurs.
7 "(2) The service referred to in paragraph (1)(A) of this
8 subsection is service which is covered by amounts deducted
9 and withheld as provided in section 805(g), is service
10 described in subparagraphs (C) through (G) of section
11 210(a)(5) of the Social Security Act, and is taken into
12 account for the purpose of computing the annuity to which
13 paragraph (1) of this subsection applies."

14 TREATMENT OF CERTAIN RECALL SERVICE

15 Sec. 404. Section 823 of the Foreign Service Act of 1980
16 (94 Stat. 2122; 22 U.S.C. 4063) is amended by adding at the
17 end thereof the following new subsection:
18 "(c) If an annuitant becomes subject to subchapter II of
19 this chapter by reason of recall service--

20 "(1) subsections (a) and (b) shall not apply to such
21 annuitant; and

22 "(2) section 824 shall apply to the recall service
23 as if such service were reemployment."

24 REEMPLOYMENT

25 Sec. 405. Section 824 of the Foreign Service Act of 1980

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1 (94 Stat. 2122; 22 U.S.C. 4064) is amended to read as
2 follows:

3 "Sec. 824. Reemployment.--(a)(1)(A) Except in the case
4 of an annuitant who makes an election under subsection (b),
5 if any member of the Service who has retired and is receiving
6 an annuity under this subchapter or subchapter II of this
7 chapter becomes employed in an appointive or elective
8 position in the Government, payment of any annuity under
9 either subchapter to the annuitant terminates effective on
10 the date of the employment.

11 "(B) If an annuity of an annuitant is terminated under
12 subparagraph (A) by reason of reemployment and--

13 "(1) the annuitant was not entitled to an annuity
14 under subchapter II of this chapter before the
15 reemployment began, or

16 "(11) the reemployment service is subject to the
17 Federal Retirement System under chapter 84 of title 5,
18 United States Code,

19 the terminated annuity shall resume and the annuitant shall
20 be entitled to a supplemental annuity effective on the date
21 the annuitant becomes 62 years of age or on the date of
22 termination of the reemployment, whichever is earlier.

23 "(2) A reemployed annuitant who, before reemployment,
24 was entitled to an annuity under subchapter II of this
25 chapter and has been reappointed to a Foreign Service

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1 position shall be entitled to a redetermination of rights
2 under such subchapter upon termination of the employment. If
3 such annuitant, before reemployment, was also entitled to an
4 annuity under subchapter I of this chapter, that annuity
5 shall be resumed upon termination of the employment.

6 “(b)(1) A member of the Service who is entitled to an
7 annuity under this subchapter or subchapter II of this
8 chapter and becomes employed in an appointive or elective
9 position in the Government on a part-time basis may elect to
10 continue to receive either or both annuities as provided in
11 this subsection.

12 “(2) The total annuity payable under this chapter to an
13 annuitant making an election under paragraph (1) shall be
14 reduced during the part-time employment referred to in such
15 paragraph as necessary to meet the requirements of paragraph
16 (3).

17 “(3) The sum of--

18 “(A) the total annuity payable under this chapter to
19 an annuitant making an election under paragraph (1), and

20 “(B) the annual rate of pay payable to the
21 annuitant, during the part-time employment referred to in
22 such paragraph may not exceed the annual rate of pay
23 which is payable for full-time employment in the position
24 in which the annuitant is employed.

25 “(4) Upon termination of the part-time employment

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1 referred to in paragraph (1), payment of the full annuity of
2 an annuitant who has made an election under paragraph (1) of
3 this subsection shall resume.

4 “(c) The amount of an annuity which has been terminated
5 under this section by reason of the reemployment of the
6 annuitant and is resumed under this section shall be the
7 amount of the annuity which would have been payable if the
8 annuitant had not accepted the reemployment. The amount of an
9 annuity resulting from a redetermination of rights pursuant
10 to subsection (a) shall not be less than the amount of the
11 terminated annuity plus any increases under section 826
12 occurring after the termination of the annuity and before the
13 commencement of the redetermined annuity.

14 “(d) If an annuitant to whom this section applies dies
15 while reemployed, a survivor annuity payable with respect to
16 the deceased annuitant shall be redetermined as if the
17 employment had terminated on the date of death.

18 “(e) The annuity rights of any member of the Service who
19 is reemployed in the Federal Government shall be determined
20 under this section instead of section 8468 or 8474 of title
21 5, United States Code.

22 “(f) When any such retired member of the Service is
23 reemployed, the employer shall send a notice of such
24 reemployment to the Secretary of State, together with all
25 pertinent information relating to such employment, and shall

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1 pay directly to such member the salary of the position in
2 which he or she is serving.

3 "(g) In the event of any overpayment under this section,
4 such overpayment shall be recovered by withholding the amount
5 involved from the salary payable to such reemployed member of
6 the Service or from any other moneys, including annuity
7 payments, payable under this chapter."

8 COMPATIBILITY BETWEEN THE FEDERAL RETIREMENT SYSTEM AND THE
9 FOREIGN SERVICE PENSION SYSTEM

10 Sec. 406. Section 827 of the Foreign Service Act of 1980
11 (94 Stat. 2124; 22 U.S.C. 4067) is amended by adding at the
12 end thereof the following new subsection:

13 "(c) The President shall maintain, under the same
14 conditions and in the same manner as provided in subsections
15 (a) and (b), existing conformity between the Federal
16 Retirement System provided in chapter 84 of title 5, United
17 States Code, and the Foreign Service Pension System provided
18 in subchapter II of this chapter."

19 FOREIGN SERVICE PENSION SYSTEM

20 Sec. 407. (a) Chapter 8 of title I of the Foreign Service
21 Act of 1980 (94 Stat. 2102; 22 U.S.C. 4041 et seq.) is
22 amended by adding at the end thereof the following:

23 "Subchapter II--Foreign Service Pension System

24 "Sec. 851. Establishment.--(a) There is hereby

25 established a Foreign Service Pension System.

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1 “(b) Except as otherwise specifically provided in this
2 subchapter or any other provision of law, all participants in
3 the Foreign Service Pension System shall be subject to the
4 provisions of chapter 84 of title 5, United States Code, and
5 shall be treated in all respects as persons whose
6 participation in the Federal Retirement System provided in
7 that chapter is required by section 8402 of such title.

8 “Sec. 852. Definitions.--As used in this subchapter,
9 unless otherwise specified--

10 “(1) the term ‘annuity’ means the annuity which is
11 described in subchapter II of chapter 84 of title 5,
12 United States Code, and is payable to a participant;

13 “(2) the term ‘Fund’ means the Retirement and
14 Disability Fund maintained by the Secretary of the
15 Treasury pursuant to section 802;

16 “(3) the term ‘participant’ means a person who
17 participates in the Foreign Service Pension System;

18 “(4) the term ‘System’ means the Foreign Service
19 Pension System; and

20 “(5) the terms ‘Foreign Service normal cost’, ‘Fund
21 balance’, and ‘unfunded liability’ have the same meanings
22 as are provided for such terms in section 804.

23 “Sec. 853. Participants.--(a) Except for persons
24 excluded by subsection (b), all members of the Foreign
25 Service, any of whose service after December 31, 1983, is

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1 employment for the purpose of title II of the Social Security
2 Act and chapter 21 of the Internal Revenue Code of 1954, who
3 would, but for this section, be participants in the Foreign
4 Service Retirement and Disability System pursuant to section
5 803 shall be participants in the Foreign Service Pension
6 System.

7 “(b) Members of the Service who were participants in the
8 Foreign Service Retirement and Disability System on or before
9 December 31, 1983, and who have not had a break in service in
10 excess of 1 year since that date, are not made participants
11 in the System by this section, without regard to whether they
12 are subject to title II of the Social Security Act.

13 “Sec. 854. Entitlement to Annuity.--(a) Any participant
14 who retires voluntarily or mandatorily under section 607,
15 608, 811, or 813 under conditions authorizing an immediate
16 annuity for participants in the Foreign Service Retirement
17 and Disability System shall be entitled to an immediate
18 annuity computed under subsections (a) and (c) of section
19 8413 of title 5, United States Code. The annuity shall not be
20 subject to reduction under section 8414 of such title.

21 “(b) A participant who is entitled to an immediate
22 annuity under subsection (a) shall be entitled to receive an
23 annuity supplement while the annuitant is under 62 years of
24 age. The annuity supplement shall be based on the total
25 creditable service of the annuitant and shall be computed and

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1 increased in accordance with section 8413(b) of title 5,
2 United States Code.

3 “(c)(1) Any participant may be retired under the
4 conditions specified in section 811 and shall be retired
5 under the conditions specified in sections 812 and 813 and
6 receive benefits under this subchapter.

7 “(2) For the purposes of this subsection--

8 “(A) the term ‘participant’, as used in the sections
9 referred to in paragraph (1), means a participant in the
10 Foreign Service Pension System; and

11 “(B) the term ‘System’, as used in those sections,
12 means the Foreign Service Pension System.

13 “(d) Any participant who is separated for cause under
14 section 610 shall be entitled to a deferred annuity under
15 section 8412 of title 5, United States Code, under the
16 conditions specified in such section unless the Secretary
17 determines that the separation was based in whole or in part
18 on disloyalty to the United States.

19 “Sec. 855. Creditable Service.--Participants shall be
20 entitled to extra credit for service at unhealthful posts
21 under section 817 under the same conditions as apply to
22 participants in the Foreign Service Retirement and Disability
23 System.

24 “Sec. 856. Funding.--(a) All payments under this
25 subchapter which are comparable to payments under subchapters

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1 II, IV, V, and VII of chapter 84 of title 5, United States
2 Code, based on the service of participants or former
3 participants shall be paid by the Secretary of State from the
4 Fund.

5 “(b)(1) All sums required to finance the payments
6 referred to in subsection (a) shall be credited to the Fund.

7 “(2) The sums referred to in paragraph (1) are--

8 “(A) amounts which (i) are determined by the
9 Secretary of State to be necessary to defray the normal
10 cost of the benefits payable under this subchapter to
11 participants who are members of the Foreign Service, and
12 (ii) are paid by each agency which employs any such
13 participants;

14 “(B) the sums which are transferred to the Fund by
15 the Secretary of the Treasury to defray the supplemental
16 liability of the System attributable to such
17 participants;

18 “(C) the sums which are transferred by the Secretary
19 of the Treasury to the Fund from the Department of
20 Defense Military Retirement Fund to defray the cost
21 relating to the creditable military service of Foreign
22 Service members who become participants during any year;
23 and

24 “(D) such other sums as may be required to finance
25 the System and are paid into or transferred to the Fund

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1 for such purpose.

2 "(c) At least every 5 years, the Secretary of the
3 Treasury shall prepare periodic valuations of the Foreign
4 Service Pension System and shall advise the Secretary of
5 State of (1) the normal cost of the System, including the
6 cost of disability payments, (2) the supplemental liability
7 of the System, and (3) the amounts necessary to finance the
8 costs of the System.

9 "Sec. 857. Disability.--The Secretary of State (in
10 consultation with the Medical Director of the Department of
11 State and the Foreign Service), instead of an administrator
12 of benefits (as defined in section 8441(1) of title 5, United
13 States Code), shall determine whether a participant or former
14 participant is unfit for overseas duty for the purposes of
15 subchapter V of chapter 84 of such title.

16 "Sec. 858. General and Administrative Provisions.--(a)
17 The Secretary of State shall administer the Foreign Service
18 Pension System except for matters pertaining to the Thrift
19 Savings Plan provided in subchapters III and VIII of chapter
20 84 of title 5, United States Code. The Secretary of State,
21 with respect to the Foreign Service Pension System, shall
22 perform the functions and exercise the authority vested in
23 the Office of Personnel Management or the Director of such
24 Office by such chapter 84, and may issue necessary
25 regulations for such purposes.

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1 “(b) Determinations of the Secretary of State under the
2 Foreign Service Pension System which, if made by the Office
3 of Personnel Management under chapter 84 of title 5, United
4 States Code, the Director of such Office, or an administrator
5 of benefits (as defined in section 8441(1) of such title),
6 would be appealable to the Merit Systems Protection Board, to
7 such Office, or to the Director of such Office shall,
8 instead, be appealable to the Foreign Service Grievance
9 Board.

10 “Sec. 859. Transition Provisions.--The Secretary of
11 State shall issue regulations providing for the transition
12 from the Foreign Service Retirement and Disability System to
13 the Foreign Service Pension System. For this purpose, the
14 provisions of sections 8471, 8472, and 8473 of title 5,
15 United States Code, relating to the Civil Service Retirement
16 and Disability System and contributions, deposits, pay
17 computations, service credit, and disability retirement under
18 such system shall be deemed to refer in like manner to the
19 Foreign Service Retirement and Disability System and
20 contributions, deposits, pay computations, service credit,
21 and disability retirement thereunder.”.

22 (b) The table of contents in section 2 of such Act is
23 amended--

24 (1) by striking out the item relating to chapter 8
25 and inserting in lieu thereof the following:

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..Chapter 8--Foreign Service Retirement and Disability

..Subchapter I--Foreign Service Retirement and Disability
System''; and

(2) by inserting after the item relating to section

827 the following:

..Subchapter II--Foreign Service Pension System

- ..Sec. 851. Establishment.
- ..Sec. 852. Definitions.
- ..Sec. 853. Participants.
- ..Sec. 854. Entitlement to annuity.
- ..Sec. 855. Creditable Service.
- ..Sec. 856. Funding.
- ..Sec. 857. Disability.
- ..Sec. 858. General and administrative provisions.''.